

AMENDED IN ASSEMBLY JANUARY 26, 2006

AMENDED IN ASSEMBLY JUNE 13, 2005

AMENDED IN ASSEMBLY JUNE 1, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1029

Introduced by Assembly Member Jerome Horton

February 22, 2005

An act to amend Sections 15604 and 15622 of, and to add Sections 15606.2 and 15622.5 to, *Section 15604* of the Government Code, relating to the State Board of Equalization.

LEGISLATIVE COUNSEL'S DIGEST

AB 1029, as amended, Jerome Horton. The State Board of Equalization: ~~ex parte communications, decisions, and determinations; personnel process.~~

~~(1) The~~

The California Constitution establishes the State Board of Equalization consisting of the Controller and 4 members elected to 4-year terms at gubernatorial elections. Existing law authorizes the board to appoint its secretary who holds office at the pleasure of the board.

This bill would ~~provide that the appointment of the executive officer is subject to Senate confirmation. The bill would also~~ prohibit the board from participating in the personnel process, except as specified.

~~(2) Existing law authorizes the board to sell at prices fixed by the board copies of compilations of the revenue laws of the state, maps, and other documents.~~

~~This bill would require the board to make public and readily available on the Internet all board decisions and determinations and would authorize the board to sell copies of any decision or determination required to be published.~~

~~This bill would require the disclosure of an ex parte communication between a board member and any interested party, as defined, in the board's record if an ex parte communication occurs in a matter pending before the board for adjudication. The bill would require all relevant information to a matter set for adjudicatory hearing before the board to be provided to all parties to the matter, as well as to board proceeding staff, at least 14 days before the hearing. The bill would provide that if relevant information is offered or provided by the taxpayer that was not made available to all parties to the proceeding and to the board proceedings staff, the bill would require the hearing on the matter to be continued to a hearing date not less than 14 days after the information is made available to the parties and the board staff.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15604 of the Government Code is
2 amended to read:
3 15604. (a) The board may appoint its executive officer;
4 ~~subject to Senate confirmation~~, and prescribe and enforce his or
5 her duties. The executive officer shall hold office ~~during~~ *at* the
6 pleasure of the board and shall receive compensation as
7 prescribed by the board.
8 (b) The board may employ expert and clerical assistants as it
9 deems necessary in the performance of its powers and duties.
10 However, the board members shall not participate in the
11 personnel process, except for (1) hiring that is at or above the
12 level of ~~Career Executive Assistant~~ *career executive appointment*
13 or district administrator, or hiring immediate staff; (2) legal
14 matters coming before the board in connection with personnel;
15 and (3) as otherwise necessary to discharge its duties derived
16 from the California Constitution.
17 SEC. 2. ~~Section 15606.2 is added to the Government Code, to~~
18 ~~read:~~

1 ~~15606.2.— (a) If an ex parte communication occurs between a~~
2 ~~board member and any interested party to any matter pending~~
3 ~~before the board for adjudication, the board member must~~
4 ~~disclose the ex parte communication on the record of the board~~
5 ~~proceedings at the commencement of the hearing on the matter.~~
6 ~~The disclosure must include the name and position of each~~
7 ~~interested party, the date, the subject matter discussed, and the~~
8 ~~information provided to the board member.~~

9 ~~(1) For purposes of the section, “ex parte communication”~~
10 ~~means any written or oral communication between a member of~~
11 ~~the board and an interested person about an adjudicatory matter~~
12 ~~before the board, other than purely procedural matters, that does~~
13 ~~not occur in a public hearing, workshop, or other official~~
14 ~~proceeding or on the official record of the proceeding on the~~
15 ~~matter.~~

16 ~~(2) For purposes of this section, “interested party” means any~~
17 ~~person that has an interest in the outcome of the adjudicatory~~
18 ~~matter pending before the board, whether direct or indirect or~~
19 ~~whether pecuniary or not. An interested party includes, but is not~~
20 ~~limited to, the taxpayer, the taxpayer’s representatives, and any~~
21 ~~other person who intends to influence the decision of a board~~
22 ~~member on an adjudicatory matter pending before the board.~~

23 ~~(b) All relevant information on any matter set for an~~
24 ~~adjudicatory hearing before the board shall be provided to all~~
25 ~~parties to the matter, as well as to board proceeding staff, at least~~
26 ~~14 days prior to the hearing. If any relevant information is~~
27 ~~offered or provided by the taxpayer that was not made available~~
28 ~~to all parties to the proceeding and to the board proceedings staff,~~
29 ~~the hearing on the matter shall be continued to a hearing date not~~
30 ~~less than 14 days after the information is made available to the~~
31 ~~parties to the proceeding and to the board proceeding staff. The~~
32 ~~parties to the matter may agree to waive the continuance required~~
33 ~~under this subdivision if they determine a continuance is not~~
34 ~~necessary for fair resolution of the matter.~~

35 ~~SEC. 3.— Section 15622 of the Government Code is amended~~
36 ~~to read:~~

37 ~~15622.— The board may sell at prices fixed by the board copies~~
38 ~~of compilations of the revenue laws of the state, any decision or~~
39 ~~determination required to be published pursuant to Section~~
40 ~~15622.5, maps, and other documents.~~

1 ~~SEC. 4. Section 15622.5 is added to the Government Code, to~~
2 ~~read:~~
3 ~~15622.5. The board shall make public and readily available~~
4 ~~on the Internet all board decisions and determinations.~~

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